



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: MSG Delbert G. Armstrong, USA (Retired)
File: B-244596
Date: July 22, 1991

DECISION

Master Sergeant (MSG) Delbert G. Armstrong, USA (Retired) requests that our Office review the Department of the Army's denial of his request for waiver under 10 U.S.C. § 2774 of his indebtedness of \$946.89 for retroactive Survivor Benefit Plan (SBP) premiums.

MSG Armstrong retired from the Army on February 1, 1966, and on August 23, 1973, he requested SBP coverage for his spouse and children. Deductions were withheld from his retired pay through December 30, 1988. Effective January 1, 1989, MSG Armstrong waived his retired pay in lieu of Civil Service Retirement (CSR). Under the SBP law, a retired member participating in the SBP plan is required to pay the SBP cost during the period the waiver is in effect, unless he elects to provide spouse coverage under the Civil Service Annuity program. The Army suspended collection of MSG Armstrong's SBP premiums until they received verification from the Office of Personnel Management (OPM) as to whether he had elected coverage under the Civil Service Annuity plan. On April 13, 1989, OPM informed the Army that MSG Armstrong declined coverage under the Civil Service Annuity plan. However, MSG Armstrong was not advised until April, 1990 of his liability for the premiums. As a result, MSG Armstrong is indebted to the United States in the amount of \$946.89 for retroactive SBP premiums from January 1, 1989, through June 30, 1990. MSG Armstrong requested waiver of the claim under the provisions of 10 U.S.C. § 2774, and the Army denied his application for waiver. MSG Armstrong requests that we review the Department of the Army's determination.

Section 2774 of title 10, United States Code, provides authority for waiving claims for erroneous payments of pay and certain allowances made to or on behalf of members or former members of the uniformed services.

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Since MSG Armstrong had waived his retired pay, he was receiving no pay or allowances. Therefore, there was no erroneous payment of pay or allowances which could be subject to waiver under section 2774. See B-242195, June 14, 1991.

Accordingly, waiver is denied.

A handwritten signature in cursive script, appearing to read "J. Hinchman", is written over the typed name.

James F. Hinchman
General Counsel